



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,431	09/02/2003	Andrea C. Nasstrom	0001263/2232USU	1893
<div>7590 04/03/2007 Charles N.J. Ruggiero, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CO 06901-2682</div>			<div>EXAMINER MILLER, BENA B</div> <div>ART UNIT 3725 PAPER NUMBER</div>	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/03/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/653,431

Applicant(s)

NASSTROM ET AL.

Examiner

Bena Miller

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20, 27, 28, 30 and 63-67 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 16-20, 27, 28, 30 and 63-67 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16-20, 27, 28, 30 and 63-67 are finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter, "said integrated circuit chip controlling said amplifier to emit said sound for only a predetermined period of time after said integrated circuit chip detects that said spring cylinder contacted said sensor" as recited in claim 16 and "wherein said integrated circuit chip is configured to control said sound generating member to emit the sound for only a predetermined period of time if said first actuator switch is in an activated position and said integrated circuit chip detects that said spring cylinder contacted said sensor" as recited in claim 63, as now amended, is not supported by the original specification and therefore, now constitute New Matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3725

Claims 16-20, 27, 28, 30 and 63-67 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 16, it is not clear whether the integrated circuit chip controls the amplifier to emit sound for only a predetermined period of time after the integrated circuit chip has detected that the spring cylinder has contacted the sensor.

Re claim 63, it is not clear whether the integrated circuit chip is configured to control the sound generating member to emit sound for only a predetermined period of time if the first actuator switch is in an activated position and whether the integrated circuit chip has detected that the spring cylinder has contacted the sensor.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16, 27, 28, 30, 63 and 65 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto (US Patent 4,479,114).

The device of Yamamoto reads on the claimed elements including an article of dress having a pocket (col. 3, line 36), a sound generating member (14; col. 3, lines 33 and 34) adapted to be removably inserted into said pocket (col.3, line 36) and having an integrated circuit chip (80) in electrical communication with an amplifier (68), a power supply (74), a first actuator switch (16), and a sensor (col. 6, line 47), said sound

Art Unit: 3725

generating member also having a motion activated trigger (col. 4, lines 1-34) comprising a spring cylinder (col. 4, lines 1-34), and an outer housing (14), said spring cylinder to contact said sensor in response to movement of said sound generating member, and if said first actuator switch is in an activated position, said integrated circuit chip controlling said amplifier to emit said sound for only a predetermined period of time after said integrated circuit chip detects that said spring cylinder contacted said sensor (col. 6, par 1 and 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 27, 28, 30, 63 and 65 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto.

In the event applicants disagree with the above rejection, it would have been obvious to one having ordinary skill at the time the invention was made to use clothing having a pocket with the device of Yamamoto for the purpose of protecting individuals against attackers and especially, in view of the teaching of Yamamoto that the device can be carried by a person's pocket or on a person's wrist.

Claims 16, 19, 20, 27, 28, 30, 63-65 and 67 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto.

Art Unit: 3725

Yamamoto teaches most of the elements of the claimed invention, except for music, prerecorded sound, the predetermined period of time about 15 seconds to 45 seconds and clothing having a pocket. It would have been obvious to one having ordinary skill at the time the invention was made to use clothing having a pocket with the device of Yamamoto for the purpose of protecting individuals against attackers and especially, in view of the teaching of Yamamoto that the device can be carried by a person's pocket or on a person's wrist.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate music, a prerecorded sound and sound emitted for a predetermined period of time about 15 seconds to 45 seconds in the device of Yamamoto for the purpose of providing an audible alarm to help protect individuals against attackers.

Claims 16-19, 63, 65 and 67 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto in view of Jennings (US Patent 4,825,471).

Yamamoto teaches most of the elements of the claimed invention except for shirt having a pocket and music. Jennings teaches a garment, a shirt means, having a pocket for inserting an audio device and speaker therein (12, 60 and col. 4, par. 1). Jennings also teaches that it is known for garments to have audio devices that provide audio signals, such as music for an individual pleasure (col. 1, par. 1 and 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a shirt having a pocket with and music as taught by Jennings for the device

Art Unit: 3725

of Yamamoto for the purpose of providing pleasurable entertainment to an individual when jogging.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

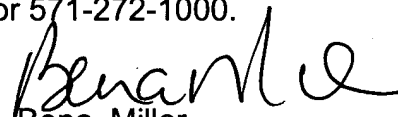
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427.

The examiner can normally be reached on Monday-Friday.

Art Unit: 3725

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Bena Miller
Primary Examiner
Art Unit 3725

bbm
March 28, 2007